



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

SMC

Docket No: 05133-00

30 November 2000

AN [REDACTED] USN

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 11 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

5000  
Ser 831/0486  
11 Sep 00

MEMORANDUM FOR BCNR COORDINATOR (NPC-00ZB/PERS-00ZB)

From: Head, Military Personnel Security Branch (PERS-831)  
To: Executive Director, Board for Correction of Naval Records  
Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: ADVISORY OPINION ICO ~~AN ENLISTMENT MATTER~~, USN, ~~REDACTED~~

Ref: (a) COMNAVPERSCOM (PERS-00ZCB) Memo of 7 Sep 00  
(b) COMNAVPERSCOM ltr 5520 Ser 831/0776 of 20 Oct 98  
(c) DD FORM 1966/3 for SNM  
(d) BCNR Coordinator (PERS-00ZCB) Memo of 18 Aug 00

1. Per reference (a), a review of references (b) and (c) was conducted and an advisory opinion is hereby submitted as requested by reference (d). The review of references (b) and (c) leads to the following observations:

a. SNM does have a waiver for two arrests [on reference (c)], DUI in 6-95 and resisting arrest in 5-95.

b. Fraudulent Enlistment processing was directed for SNM for the following (non-listed) arrests:

(1) Obstructing a Public Officer on 27 Jul 95

(2) Failure to Appear (FTA) for Driving Under the Influence (DUI)/Driving while license suspended (DWLS) on 26 Mar 98.

3. As the review indicates, the waiver was NOT for the arrests cited in reference (b). Although a waiver was granted, the arrests cited in reference (b) were NOT waived; therefore reference (b) was not issued in error.

4. SNM received a waiver for fraudulent enlistment from his General Court-Martial Convening Authority (GCMCA) in January 1999. If reference (b) was in error, no waiver would have been necessary.

5. Since a waiver was granted and reference (b) was not issued in error, it is a valid part of SNM's service record and should NOT be removed from SNM's service record.

~~REDACTED~~

③ ADVISORY OPINION